IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NOs: 15527 & 17323 of 2003

-

-

Writ Petition No.15527 of 2003

Between:

M/s. Mounika Poultries (N.V.S. Raju Poultries),
Prop. Nandyala Samba Siva Raju, Bavayapalem Road,
Ganapavaram, W.G. District - 534 198

... PETITIONER

AND

Bank of India, Visakhapatnam Zonal Office,
Krishna Bhavan, 10-50-51, Ramnagar, Waltair Main Road,
Visakhapatnam - 530 002

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ more particularly one in the nature of writ of mandamus, directing the respondent by stating that the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not applicable and permit the petitioner to avail one time settlement and stay the proceedings issued by the Respondents by its notice dated 25-3-2003 and pass such other and

further order or orders as this Hon'ble Court may deem fit and proper in the interest of Justice.

Counsel for the Petitioner: MR.K.SANKARANARAYANA

Counsel for the Respondent No.: MR.S.SURYA PRAKASA RAO

WRIT PETITION NO: 17323 of 2003

Between:

Smt. Nandyala Sridevi,

W/o. Nandyala Samba Siva Raju,

Bavayapalem Road,

Ganapavaram,

West Godavari District – 534 198.

... PETITIONER

AND

1. Zonal Manager, Bank of India,

Visakhapatnam Zonal Office, Kishan Bhavan,

10-50-51, Ramnagar,

Waltair Main Road,

Visakhapatnam – 530 002.

2. Sri C.V.R. Murthy,

Branch Manager, Bank of India,

Palakoderu,

West Godavari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ more particularly one in the nature of Writ of Mandamus, directing the respondent by stating that notice issued by the respondent bank on 25.3.2003 under the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Ordinance, 2002 which was repealed under Section 42 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is bad in law and void *ab initio* and quash all the proceedings initiated under the said repealed Ordinance and pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the interest of Justice.

Counsel for the Petitioner: Mr.K.Sankaranarayana

Counsel for the Respondents: Mr. Suryaprakasa Rao

The Court made the following:

COMMON ORDER: (Per Hon'ble The Chief Justice)

Provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 are not under challenge. Only challenge in these writ petitions is to the action of the respondents in issuing notices to the petitioners under the provisions of the Act.

2 . All actions qua the action proposed to be taken by the respondents cannot be made subject matter of writ jurisdiction, since there is adequate and efficacious alternative remedy available to them to question the validity and legality of the notice by approaching the Debt Recovery Tribunal, for which purpose, the decision of the Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD V UNION OF INDIA & ORS], gives time.

3. Leave and liberty are granted to the petitioners to seek redressal in appropriate forum. These writ petitions are accordingly dismissed.

_____

DEVINDER GUPTA, CJ

_____

G. ROHINI, J

July 16, 2004

MRR/NMR

Copy to:

1. Zonal Manager, Bank of India,

Visakhapatnam Zonal Office, Kishan Bhavan,

10-50-51, Ramnagar,

Waltair Main Road,

Visakhapatnam – 530 002.

2. Sri C.V.R. Murthy,

Branch Manager, Bank of India,

Palakoderu,

West Godavari District.

3 Two C.D. Copies.